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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,077	02/13/2004	James Pine	66202-008-7	4131

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EXAMINER

MAYO, TARA L

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/777,077

Applicant(s)

PINE, JAMES

Examiner

Tara L. Mayo

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2004.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-5 and 8 is/are rejected.  
7) ☒ Claim(s) 6 and 7 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 26 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20041026.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Drawings*

1. The drawings were received on 26 October 2004. These drawings are acceptable.

### *Claim Objections*

2. The prior objection to claim 1 has been overcome by the response filed 26 October 2004.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 through 4 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Thurow (U.S. Patent No. 5,103,510 A).

Thurow '510, as seen in Figures 1 through 4, shows a folding sofa (10) comprising:  
with regard to claim 1,

a main frame including left and right end members (20a, 20b) and front and rear cross members (22a, 22b) connected to and extending between said left and right end members;

a seat frame (48) and a back frame (30 and 32, collectively) located between said left and right end members, said seat and back frames being pivotally connected together; and

Art Unit: 3671

a support mechanism for mounting said seat and back frames between said left and right end members and controlling relative movement of said seat and back frames between a couch positioning and a bed positioning, said support mechanism comprising:

left and right linkage subassemblies which each include an arm mounting plate (44) attached to an adjacent end member, a seat link (60) pivotally connected at a lower end (79) to said arm mounting plate and at an upper end (75) to said seat frame, a lower back link (40) pivotally connected at a lower end (43) to said arm mounting plate and at an upper end (37) to said back frame, and an upper back link (36) pivotally connected at a lower end (41) to said arm mounting plate and at an upper end (35) to said back frame;

with regard to claim 2,

wherein said support mechanism includes left and right leg subassemblies (24) which each include a leg member (82) pivotally attached to a forward end of said frame so as to pivot between an extended floor-engaging position and a retracted position beneath said seat frame (col. 7, lines 24 through 30);

with regard to claim 3,

wherein each of said left and right leg subassemblies includes a drive link (62, 64) attached to a respective seat link so that movement of said seat and back frames between a bed position and couch position will automatically cause said leg members to move between said extended and retracted positions ;

with regard to claim 4,

further including springs (76) respectively attached to said leg members to bias said leg members in either of said extended or retracted positions;

Art Unit: 3671

with regard to claim 8,

wherein said upper back links are connected at their upper ends to said back frame at a location about halfway along a depth dimension thereof.

*Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thurow (U.S. Patent No. 5,103,510 A) in view of Bridges (U.S. Patent No. 4,937,900).

Thurow '510 discloses all of the features of the claimed invention with the exception(s) of:  
claim 5,

a stabilizer member (41) extending between the leg members.

Bridges '900, as seen in Figures 1, 4 and 7, shows a sofa bed comprising leg members (14, 16) and stabilizing members (18, 20).

With regard to claim 5, it would have been obvious to one having ordinary skill in the art of beds at the time the invention was made to modify the device shown by Thurow '510 with stabilizing members as taught by Bridges '900. The motivation would have been to include further load distributing members.

***Allowable Subject Matter***

7. Claims 6 and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

***Response to Arguments***

9. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tara L. Mayo whose telephone number is 703-305-3019. The examiner can normally be reached on Monday through Friday 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 703-308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/777,077

Page 7

Art Unit: 3671

Handwritten signature of tlm.

tlm

12 November 2004

Handwritten signature of Thomas B. Will.

Thomas B. Will  
Supervisory Patent Examiner  
Group 3600